

**PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA
COMMISSION DIRECTIVE**

ADMINISTRATIVE MATTER

☐

DATE

June 23, 2010

MOTOR CARRIER MATTER

☒

DOCKET NO.

2010-196-T

UTILITIES MATTER

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ORDER NO.

SUBJECT:

Docket No. 2010-196-T - Petition of Charleston Portable Storage, LLC; Portable Storage of North Carolina, LLC; Upstate Storage Partners, LLC; and Portable Storage and Moving of Columbia, LLC for a Declaratory Judgment - Discuss this Matter with the Commission.

COMMISSION ACTION:

Madam Chairman, in Docket No. 2010-196-T, Petitioners Charleston Portable Storage, LLC; Portable Storage of North Carolina, LLC; Upstate Storage Partners, LLC; and Portable Storage and Moving of Columbia, LLC have asked for a Declaratory Order ruling that the Commission does not have jurisdiction over POD services; and, that the Certificates of petitioners are therefore rendered moot. In early 2010, the Commission considered the same issue in the Application of U-Haul Company of South Carolina, Inc. ("U-Haul"), for a Class E (Household Goods) Certificate. As stated in Directive Order No. 2010-91 in Docket 2009-141-T,

"In 2005 Congress enacted the SAFE, ACCOUNTING, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS ("SAFETY-LU"). SAFETY-LU includes a "Limited Service Exclusion" stating that the term household goods motor carrier "does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual other than an employee or agent of the motor carrier." U-Haul Company of South Carolina, Inc. falls under the "Limited Service Exclusion." Therefore, under the facts of this case, the Commission's jurisdiction in this matter is exempted by SAFETY-LU."

The same logic applies to at least Charleston Portable Storage, LLC and Portable Storage and Moving of Columbia, LLC in the present docket. If an employee or agent of the motor carrier DOES NOT participate in the loading and / or unloading of the container, the Commission's jurisdiction in this matter is exempted by SAFETY-LU, and the Companies' certificates are rendered moot.

With Charleston Portable Storage, LLC and Portable Storage and Moving of Columbia, LLC, the stated scope of authority in the two Companies' Certificates indicates that the certificates allow loading only by the shipper. Therefore, consistent with the Commission's U-Haul decision, these two Certificates are determined to be moot.

The scopes of authority for Portable Storage of North Carolina, LLC and for Upstate Storage Partners, LLC are not specifically limited to loading by the shipper, therefore, potentially granting authority for loading by employees or agents of the two companies, or for other transportation of household goods. However, if, in practice, the loading of the PODS is only done by the shippers contracting with these two companies, it is possible that these two certificates could also be rendered moot. If indeed this is the case, we direct that Portable

Storage of North Carolina, LLC and Upstate Storage Partners, LLC furnish sworn affidavits to the effect that they only furnish PODS for loading and unloading by shippers, and will not do otherwise if the Commission agrees to moot their certificates. Upon receipt of said affidavits, the Commission can reconsider the issue of mootness of the Certificates of these two Companies under SAFETY-LU.

Madam Chairman, this is my motion.

PRESIDING: Fleming

SESSION: Regular

TIME: 11:00 a.m.

| | MOTION | YES | NO | OTHER |
|-----------|-------------------------------------|-------------------------------------|--------------------------|-------|
| FLEMING | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| HALL | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| HAMILTON | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| HOWARD | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| MITCHELL | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| WHITFIELD | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| WRIGHT | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |

(SEAL)

RECORDED BY: T. DeSanty

